



Costs Decision

Site visit made on 16 January 2018

by **David Richards BSocSci DipTP MRTPI**

Decision date: 19th January 2018

Costs application in relation to Appeal Ref: APP/E1210/W/17/3181148 Rear of 17 - 27 Knowles Close, Christchurch, BH23 3DU

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by J Redmond and A Murray for a full award of costs against Christchurch Borough Council.
 - The appeal was against the refusal of planning permission for the erection of two bungalows.
-

Decision

1. The application for an award of costs is refused.

Reasons

2. The Planning Practice Guidance advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The Appellant considers that the Council took excessive time to deal with matters at both pre-application and application stages, particularly considering that the planning officer was very familiar with the site and the limited issues raised by an outline application. Had the officer engaged there may have been the possibility of a negotiated compromise, and the need for an appeal avoided. Had it not been for these delays, the application would have been determined before implementation of the Community Infrastructure Levy Charging Schedule for the Council's area. The consequence of delay was that the application was caught by the charging levy, with associated costs implications that could have been avoided. The Appellants consider that with more proactive engagement from the planning officer, a more favourable outcome could have been achieved, avoiding the necessity of an appeal and its costs.
4. In response, the Council acknowledges that there was a delay in addressing the pre-application submission and the application, and a delay between the publicising of the Community Infrastructure Levy Charging Schedule and its adoption, which led to delays in the processing and determination of planning applications. A number of other applications were delayed as a result, and the Council has not singled out the Appellant or behaved unreasonably.
5. Policy Advice set out in the National Planning Practice Guidance explains that costs cannot be claimed for the period during the determination of the planning application (paragraph 032). Although costs can only be awarded in relation to

wasted expense at the appeal, behaviour and actions at the time of the planning application can be taken into account in the Inspector's consideration or whether or not costs should be awarded.

6. It can be seen from the decision to which this costs application relates that I have agreed with the Council on the planning issues raised by the case. Given that the refusal reasons include reference to adverse effects on the character and appearance of the area and the living conditions of neighbours, it is difficult to see that a compromise scheme could have been agreed which would have avoided the need for an appeal. While I understand the Appellants' frustration that the Council did not proceed to determine the application more quickly, it does not appear to me that there was any likelihood of a compromise being reached which would have resulted in the application being approved and the expense of an appeal being avoided. The fact that it was in outline form does not necessarily mean that the issues would have been easier for the Council to assess impacts.
7. As the Council points out, the regulations make provision for applicants to appeal against non-determination at any time after the eight-week period has elapsed if they are dissatisfied with the way the Council is handling the case at application stage. It was the Appellants choice not to do this. The Appellants consider that there would have insufficient time to receive a decision from the Inspectorate prior to the implementation of the CIL charging schedule.
8. The CIL covers important matters relating to contributions from development which are necessary to make developments acceptable, in this case the provision of alternative natural green space. The site lies within 5 km of an SSSI which is also part of a Special Protection Area (SPA) and Special Area of Conservation (SAC). It is a well-established principle that developments should make appropriate provision to mitigate potential impacts on such designated European Sites. It does not seem to me unreasonable of the council to seek to ensure such mitigation is provided for. In any event, as the Appellants state, the timing of the appeal was such that determination of the appeal would have been subject to the charging schedule.
9. In summary, the claim was made on the basis that a compromise solution could have been agreed before the implementation of the CIL charging schedule. For reasons set out above, I consider that there was little or no prospect of a compromise being reached, and the charging schedule would already have been in place by the time any appeal was determined.
10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

David Richards

INSPECTOR